

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Billed Party Preference ) CC Docket No. 92-77  
For 0+ InterLATA Calls ) Phase I

**COMMENTS OF THE AMERICAN PUBLIC COMMUNICATIONS COUNCIL**

The American Public Communications Council ("APCC") submits the following comments in response to the Commission's request for supplemental comments in these proceedings on methods for compensating operator service providers ("OSPs") who receive 0+ dialed proprietary card calls and who wish to transfer those calls to the card issuing interexchange carrier ("IXC") for completion.<sup>1/</sup> Report and Order and Request for Supplemental Comments, FCC 92-465 (released November 6, 1992), ¶64 ("Report and Order").

**STATEMENT OF INTEREST**

As an association of independent public payphone ("IPP") providers, many of whom are also OSPs, APCC has a substantial interest in the issue of proprietary card call transfer ("0+ transfer") compensation. Many APCC members offer operator services to the public by means of store-and-forward technology in their payphones. Like other OSPs, these store-and-forward based OSPs encounter proprietary cards which they are unable to validate, and

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<sup>1/</sup> Of course, in normal industry discourse, a single entity may often be referred to as both an "OSP" and an "IXC." For convenience, in these comments we refer to the "transferor" of a proprietary card call as the "OSP" and the "transferee" as the "IXC."

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which result in consumer complaints and time lost in attempting to process calls that they cannot complete. Store-and-forward payphone providers who are able and willing to provide assistance to consumers in reaching the card-issuing IXC are entitled to compensation for that service on the same basis as any other OSP.<sup>2/</sup>

### **DISCUSSION**

APCC supports the development of a compensation mechanism for proprietary card call transfers. As explained in APCC's previous comments in these proceedings, 0+ dialing with proprietary cards poses a major problem for IPP providers. When AT&T cards cannot be validated because the cardholders dial 0+ at payphones which are not presubscribed to AT&T, the cardholders are confused and frustrated. As the Commission has recognized, these cardholders

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<sup>2/</sup> APCC also has an independent technical interest in the technical aspects of these proceedings. The Commission has previously recognized that IPP owners are entitled to compensation for the use of their payphones to make "dial-around" calls and has prescribed such compensation on a flat-rate basis. Policies and Rules Concerning Operator Service Access and Payphone Compensation, 6 FCC Rcd, 4736, 4745 (1991); 7 FCC Rcd 3251 (1992), petitions for reconsideration and review pending. The flat rate compensation of \$6.00 per payphone per month recently prescribed by the FCC was developed as a temporary, second-best solution because mechanisms for implementing dial-around compensation on a more precise per-call basis were not available at the time. However, APCC has continued working on the development of per-call dial-around compensation. While the issue of compensation for OSPs for transferring proprietary card calls is different from the issue of compensation for payphone providers for "dial-around" calls, there are some common implementation problems. If per-call compensation mechanisms are successfully developed for one type of compensation, then it is likely that the same kind of mechanism can be successfully applied to the other type of compensation. APCC therefore has an interest in addressing technical implementation issues regarding per-call compensation mechanisms in this proceeding as well as in Docket 91-35.

typically -- and erroneously -- assign blame for their confusion and frustration to the payphone and/or the presubscribed OSP rather than to AT&T. The resulting complaints to location owners can result in the IPP provider being asked to remove its payphones.

These problems and the associated economic injuries to payphone providers are of AT&T's own making. AT&T has issued a proprietary card which can be used for 0+ dialing on the networks of dominant carriers -- AT&T and LECs -- but not by non-dominant carriers. As explained in detail in APCC's previous comments in these proceedings, AT&T's practice of allowing only dominant carriers to validate its card inevitably leads to a situation where cardholders are encouraged to dial 0+ to use their cards, but are frustrated when they reach the network of a non-dominant carrier -- i.e., a carrier other than AT&T or a LEC. As the Commission has recognized, AT&T has compounded these problems by its misleading promotions of its card. The Commission has officially admonished AT&T for its card promotional practices.

APCC believed that the most appropriate remedy for the problems generated by AT&T's proprietary card practices was to order AT&T to halt its practice of validating its card for other dominant carriers (LECs) while withholding validation from non-dominant carriers. The Commission declined to adopt this remedy. The remedy that the Commission did adopt -- ordering AT&T to "reeducate" its cardholders to examine the signs on public telephones before dialing 0+ -- is not sufficient. For example, cardholders will continue to be able to reach LEC networks by

dialing 0+ and will therefore continue to encounter a confusing and frustrating pattern of card validation when they reach the network of AT&T or a LEC, and card non-validation when they reach the network of a non-dominant carrier.

In these circumstances, there can be little dispute that AT&T should be required to compensate OSPs for providing a service that ameliorates the consumer confusion and frustration generated by AT&T's practices. Such a "0+ transfer" service is appropriately defined as providing assistance to consumers who dial 0+ in reaching their IXC of choice if that IXC is not the OSP presubscribed to the payphone. Such assistance may take the form of: (1) transferring the call, e.g., by having it automatically redialed at the payphone; (2) providing the consumer with dialing instructions for reaching AT&T; or (3) both. Since each of these services provides affirmative assistance to the consumer in reaching the card issuing IXC, it would appear that the provision of any of these services should result in compensation to the operator service provider.

Payphone providers who offer operator service through store-and-forward technology, and who wish to provide a 0+ transfer service, should be compensated for doing so on the same basis as any other OSP. As the Commission has previously recognized, such payphone providers are considered to be OSPs. Policies and Rules Concerning Operator Service Providers, 6 FCC Rcd 2744 (1991). When proprietary cardholders dial "0+" at payphones with store-and-forward technology, the store-and-forward OSP is negatively

affected by the resulting consumer confusion and frustration in the same way as any other OSP. Thus, these OSPs are entitled to be compensated for 0+ transfers.

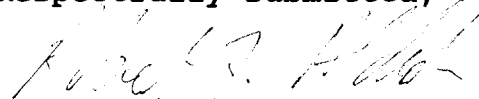
APCC believes that an OSP should be free to design its own transfer service. Different OSPs -- including store-and-forward payphone providers using various payphone models -- utilize different technologies in the provision of operator services. Within a broad definition of a compensable service, an OSP should be able to develop its own 0+ transfer in the manner that best fits the particular technology and configuration of its facilities.

APCC also believes that acceptance of the call transfer service should not be optional for the card-issuing IXC. TOCSIA ensures that callers can determine, by looking at the sign on the payphone, which OSP is presubscribed to a payphone or other aggregator phone. AT&T's past practices have encouraged cardholders to dial 0+ regardless of whether AT&T is presubscribed to a phone, and, as explained above, the Commission-ordered "reeducation" program is not sufficient to wipe out the injurious effects of AT&T's past marketing practices, or to compensate for the continuing injury caused by its present discriminatory card validation practices, which the Commission has not enjoined. Since AT&T is responsible for causing economic injury to IPP owners and other OSPs, AT&T should not be allowed to refuse to cooperate in solving the resulting problems. Therefore, if the parties are unable to agree on an appropriate level of compensation for this service, the Commission must intervene and prescribe a rate.

**CONCLUSION**

The Commission should require IXCs to compensate OSPs for transferring 0+ proprietary card calls in accordance with the foregoing comments.

Respectfully submitted,



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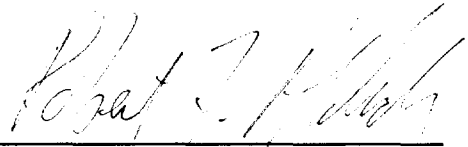
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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing "Comments of the American Public Communications Council" was served this 14<sup>th</sup> day of December, 1992, by mailing true copies thereof, postage prepaid, to the following persons at the addresses listed below:

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